

Application Serial No. 10/560,533
Amendment dated 21 September 2009
Reply to Office Action dated 19 March 2009

REMARKS

Amendments

Claim 37 has been amended to correct a typographical error introduced into the previous Listing of Claims.

Claim 45 has been canceled in favor of new claim 46.

Claim 46 has been added and is drafted to restrict the subject matter to the elected generic invention. Claim 46 has also been drafted to exclude reference to polymorphs and solvates. New claim 46 reads on the elected invention.

The claims have also been amended to be consistent with the replacement of claim 45 by claim 46.

Applicants submit that claims 2, 3, 12-14 and 46 read on the elected invention.

Applicants submit that these amendments do not constitute new matter, and their entry is requested.

Claim Objections

Applicants note the Examiner's objection to claims 2-14 and 45 for containing non-elected subject matter. Applicants have drafted new claim 46 to obviate this objection with respect to claims 2-12 and 45. Applicants are deferring response to this objection with respect to claim 13 pending allowance of the generic formula and entitlement to additional species.

Rejection Under 35 U.S.C. § 112, first paragraph

The Examiner has rejected claims 2-14 and 45 under 35 U.S.C. § 112, first paragraph for lack of enablement for any polymorphs and mixtures thereof or pharmaceutically acceptable solvates within broad claim 45. Claim 45 has been replaced by claim 46 which has been drafted to delete these terms. Applicants submit that claim 46 obviates this rejection, and its withdrawal is requested.

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Rejection Under 35 U.S.C. § 102(b)

The Examiner rejected claims 2, 3, 12-14 and 45 under 35 U.S.C. § 102(b) as being anticipated by Divanyan et al. (*Khimiko-Farmatsevticheskii Zhurnal* **12**:45-48, 1978). The Examiner cites Divanyan et al. for its disclosure of the compound L-Phenylalanine, N-[2-(phenylmethoxy)benzoyl]-, methyl ester. Applicants submit that claim 46 does not encompass the compound of Divanyan et al. because I is not benzene. Withdrawal of this rejection is requested.

Concluding Remarks

In view of the above amendments and remarks, it is submitted that the claims satisfy the requirements of the patent statutes and are patentable over the prior art of record. Reconsideration of this application and early notice of allowance is requested. The Examiner is invited to telephone the undersigned if it will assist in expediting the prosecution and allowance of the instant application.

Respectfully submitted,

By _____ /Jeffrey L. Ihnen/
Jeffrey L. Ihnen
Attorney for Applicants
Registration No. 28,957
ROTHWELL, FIGG, ERNST & MANBECK, p.c.
Suite 800, 1425 K Street, N.W.
Washington, D.C. 20005
Telephone: (202)783-6040